



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - DENIAL

Request for Variance

Karen G. Walsh Realty Trust /Map 226, Lot 1

July 2, 2014

**Applicant: Karen G. Walsh Realty Trust
25 Willow Avenue
North Hampton, NH 03862**

Location: 51 Garnet Point Road, Moultonborough, NH (Tax Map 226, Lot 1)

On May 7, 2014, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Karen G. Walsh Realty Trust (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article VII.E (1), to construct an accessory structure (pavilion) located 19'-3.5" from the shorefront setback, where a minimum of 50 ft. is required on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 51 Garnet Point Road (Tax Map 226, Lot 1).
- 2) The applicant is the owner of record for the lot.
- 3) As requested by the applicant, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, Crowe), and none (0) opposed to table the application and continue the Public Hearing to June 18, 2014.
- 4) The ZBA re-opened the continued Public Hearing at the June 18th meeting.
- 5) The applicant was represented at the Public hearing by Shannon Alther of TMS Architects.
- 6) The lot is located in the Residential Agricultural (RA) Zoning District.

- 7) The applicant is proposing to remove an existing nonconforming bunkhouse and to construct a structure (pavilion) in approximately the same location, located 19'-3.5" from the shorefront setback line, where a minimum of 50 ft. is required.
- 8) The setback affected is the fifty foot (50') shoreline setback.
- 9) The lot is greater than five (5) acres in size.
- 10) Members questioned if the pavilion could be constructed outside out the fifty (50') shoreline setback. The applicant's representative stated that this was possible, but that for the best view and experience, this site was preferred.
- 11) No members of the public spoke in favor of the Variance request.
- 12) One abutter spoke against the Variance request.
- 13) One abutter mailed their opposition to the Variance request.
- 14) Granting the Variance would not be contrary to the public interest as the Board felt that the pavilion was a minor structure on the very large lot.
- 15) Granting the Variance would not be consistent with the spirit of the Ordinance as the Board felt that the dimensional requirements had an overarching public purpose, and that in this instance, the structure could be built meeting those requirements and still have a reasonable use.
- 16) By granting the Variance, substantial justice would not be done because the pavilion could reasonably be constructed outside of the 50 ft. setback to the lake on the large parcel.
- 17) Granting the Variance would not diminish the value of surrounding properties as it would be new construction.
- 18) No Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship because the pavilion could reasonably be constructed outside of the 50 ft. setback to the lake on the large parcel.
- 19) On June 18, 2014, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, DeMeo) and none (0) opposed to deny the request for a variance,

...and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on July 2, 2014, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (5) in favor (Stephens, Nolin, Bickford, Zewski, Crowe), none (0) opposed.

The decision made to deny the variance on June 18, 2014 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 7-3-2014